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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/574,245	03/13/2007	Winfried Bunsmann	BU-16PCT	7815
40570	7590	05/01/2008	EXAMINER	
FRIEDRICH KUEFFNER			MORROW, JASON S	
317 MADISON AVENUE, SUITE 910			ART UNIT	PAPER NUMBER
NEW YORK, NY 10017			3612	
			MAIL DATE	DELIVERY MODE
			05/01/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/574,245	BUNSMANN ET AL.	
	Examiner	Art Unit	
	Jason S. Morrow	3612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 05 February 2008.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 1-4,6 and 8-11 is/are allowed.
- 6) Claim(s) _____ is/are rejected.
- 7) Claim(s) 5 and 7 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 05 February 2008 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ . | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 8 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 8 recites the limitation "the lower edge of the rear window" in lines 5 and 6. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-4, 6, and 9-11 rejected under 35 U.S.C. 102(b) as being anticipated by Liedmeyer et al. (US Patent 6,511,118).

Re claim 1, Liedmeyer et al. discloses a motor vehicle with a movable hatch (7) that encloses a rear window (6) in at least one position, wherein the rear window can be separately moved from its closed position relative to regions that surround it and into a released position, wherein the rear window can be lowered in its released position in a region of the automobile body some distance from the hatch (see figure 4).

Re claim 2, the rear window is held on the vehicle in each position and phase of movement.

Re claim 3, the rear window can be lowered when the hatch is in its open position (see figure 3).

Re claim 4, in the open position, the rear window can be lowered at least mostly below a lateral belt line of the automobile body (see figure 4).

Re claim 6, the rear window can be supported and moved by linkage parts arranged laterally in the automobile body (the rear window is capable of being moved by linkage parts as claimed).

Re claim 9, in the closed position of the rear window, at least one additional movable panel section (4, 5) extends from the upper and forward edge (in the direction of vehicle travel) of the rear window and can also be lowered into the automobile body.

Re claim 10, the rear window and the other panel sections lie parallel to one another in the open position (see figure 3).

Re claim 11, Liedmeyer et al. discloses a movable hatch for a motor vehicle in accordance with Claim 1 (see figure 1).

Allowable Subject Matter

5. Claim 8 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

6. .Claims 5 and 7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

7. Applicant's arguments filed 2/5/08 have been fully considered but they are not persuasive.

Applicant argues that the structure shown by the Liedmeyer et al. reference cannot anticipate the claims because the reference fails to show a movable hatch that encloses a rear window. The examiner respectfully disagrees. As shown by figures 1 and 2, the hatch 7 encloses the lower edge of the window. The portion 11 of the hatch 7 serves as a bottom support for the window. The claim language does not require that the hatch completely enclose or surround the window. In fact, applicant's own hatch only surrounds the window on three sides.

Applicant further argues that since the window of Liedmeyer is rigidly connected to the roof part 6, it is not possible for the structure of the reference to meet the claim language which requires "the rear window can be separately moved from its closed position relative to regions that surround it and into a released position". The examiner respectfully disagrees. The claim does not require that window is separately moved from its closed position relative to *all* the regions that surround it. Clearly the bottom regions, left and right, of the window are separately movable from the hatch which, as pointed out above, surrounds the window along the lower edge of the window. Accordingly, the structure shown by Liedmeyer meets the claim limitations.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason S. Morrow whose telephone number is (571) 272-6663. The examiner can normally be reached on Monday-Friday, 8:00a.m.-4:30p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on (571) 272-6659. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jason S. Morrow/
Primary Examiner, Art Unit 3612

April 26, 2008